

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Raymond A. Parson, Jr.,

Civil No. 12-646 (DWF/DJF)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Sharyn L. Barney, Nancy Johnston,
Thomas Lundquist, and Department of
Human Services,

Defendants.

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Dulce J. Foster dated August 24, 2023 (Doc. No. 35). No objections have been filed to the Report and Recommendation in the time period permitted.

The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference. The Magistrate Judge recommended (1) allowing Count 1 of Plaintiff's Third Amended Complaint to proceed to the extent that it asserts claims against Defendant Barney in her individual capacity under 42 U.S.C. § 1983 arising under the Eighth Amendment; (2) dismissing all counts in the Third Amended Complaint with prejudice to the extent that they bring direct claims under the United States or Minnesota Constitutions, 42 U.S.C. § 1988 or 42 U.S.C. § 2000dd, or are duplicative of the claims asserted in Count 1; and (3) dismissing the remainder of the Third Amended Complaint without

prejudice. Based upon the Report and Recommendation of the Magistrate Judge and upon all the files, records, and proceedings herein, the Court now enters the following:

ORDER

1. Magistrate Judge Dulce J. Foster's August 24, 2023, Report and Recommendation (Doc. No. [35]) is **ADOPTED**.
2. **Count 1** of Plaintiff Raymond A. Parson, Jr.'s Third Amended Complaint is allowed to proceed at this time to the extent that it asserts claims against Defendant Barney in her individual capacity under 42 U.S.C. § 1983 arising under the Eighth Amendment.
3. All Counts in the Third Amended Complaint are **DISMISSED WITH PREJUDICE** to the extent that they bring direct claims under the United States or Minnesota Constitutions, 42 U.S.C. § 1988 or 42 U.S.C. § 2000dd, or are duplicative of the claims asserted in Count 1.
4. The remainder of the Third Amended Complaint is **DISMISSED WITHOUT PREJUDICE**.

Dated: September 28, 2023

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge